

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

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Court Minutes

October 20, 2008

At 9:30 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Sims, Associate Justice; Hull, Associate Justice; Raye, Associate Justice; and Haskett, bailiff.

**C054697 CHY COMPANY et al. v. UTILITY TREE SERVICES, INC.; PACIFIC
GAS AND ELECTRIC v. UTILITY TREE SERVICES, INC.**

Cause called. Thadd A. Blizzard argued for and Dale C. Campbell appeared only for appellants CHY Company et al. Timothy J. Ryan argued for cross appellant PG & E. Lynn A. Garcia argued for cross respondent. Cause submitted.

At 10:48 a.m., the court recessed. At 10:53 a.m., the court reconvened with Sims, Associate Justice; Davis, Associate Justice; and Raye, Associate Justice.

C053341 THE PEOPLE v. HERSEL WAYNE CASTO

Cause called. Robert L.S. Angres argued for appellant. Robert C. Nash, Deputy Attorney General, argued for respondent. Cause submitted.

At 11:14 a.m., the court recessed. At 11:22 a.m., the court reconvened with Davis, Associate Justice; Nicholson, Associate Justice; and Hull, Associate Justice.

C054318 THE PEOPLE v. KENNETH LEQUIEZ HAWKINS

Cause called. Richard M. Doctoroff, court appointed counsel, argued for appellant. Stephanie A. Mitchell, Deputy Attorney General, argued for respondent. Cause submitted.

At 11:53 a.m., the court recessed. At 11:57a.m., the court reconvened with Davis, Associate Justice; Nicholson, Associate Justice; and Cantil-Sakauye, Associate Justice.

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Court Minutes

October 20, 2008, Continued

C056497 ALDERSON v. DUNN

Cause called. Amir Aalam argued for appellant. Gwendolyn K. Christeson argued for and Amber Hicks appeared only for respondent. Cause submitted.

At 12:27 p.m., the court recessed until 9:30 a.m., Tuesday, October 21, 2008.

October 21, 2008

At 9:30 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Sims, Associate Justice; Butz, Associate Justice; Cantil-Sakauye, Associate Justice; and Horner, bailiff.

C055242 PAYNE v. RADER et al.

Cause called. Matthew D. Pearson argued for appellant. Glenn M. Holley argued for respondent. Cause submitted.

At 9:54 a.m., the court recessed. At 9:55 a.m., the court reconvened with Sims, Associate Justice; Davis, Associate Justice; and Butz, Associate Justice.

C057225 THE PEOPLE v. ERIC WILLIAM FRANKLIN

Cause called. Peggy A. Headley, court appointed counsel, argued for appellant. Darren K. Indermill, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:21 a.m., the court recessed. At 10:25 a.m., the court reconvened with Raye, Associate Justice; Hull, Associate Justice; and Cantil-Sakauye, Associate Justice.

C058699 SUTTER MEMORIAL HOSPITAL v. WORKERS' COMPENSATION APPEALS BOARD and CHAIDEZ et al.

Cause called. Timothy H. Huber argued for appellant. Arthur V. Azevedo argued for respondent. Cause submitted.

At 10:57 a.m., the court recessed. At 11:02 a.m., the court reconvened with Morrison, Associate Justice; Hull, Associate Justice; and Butz, Associate Justice.

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Court Minutes

October 21, 2008, Continued

C055686 ZINNEL v. HERMAN

Cause called. Steve K. Zinnel argued for appellant in pro. per.. Arnold J. Wolf argued for and Coren D. Wolf appeared only for respondent. Cause submitted.

At 11:21a.m., the court recessed. At 2:03 p.m., the court reconvened with Scotland, Presiding Justice; Nicholson, Associate Justice; and Raye, Associate Justice.

C057241 THE PEOPLE v. TRAVIS WYLIE SWEIG

Cause called. Doris A. Calandra, Deputy Attorney General, argued for appellant. Aaron Williams argued for respondent. Cause submitted.

At 2:34 p.m., the court recessed. At 2:39 p.m., the court reconvened with Sims, Associate Justice; Davis, Associate Justice; and Nicholson, Associate Justice.

C056214 TOWER v. SHELL

Cause called. Suzanne Shell argued for appellant in pro. per.. William O. Tower argued for respondent in pro. per.. Cause submitted.

At 2:55 p.m., the court recessed until 9:30 a.m., Wednesday, October 22, 2008.

**C055907 THE PEOPLE v.
GRANT ALBERT WOLFENDEN, III**

(Not For Publication)

The judgment is modified by striking the \$330 fee imposed under Penal Code section 1203.1b and as so modified is affirmed. The trial court is directed to forward a new abstract to the Department of Corrections and Rehabilitation.

MORRISON, J.

We Concur: Davis, Acting P.J.

Cantil-Sakauye, J.

**C054849 THE PEOPLE v.
VLADIMIR VASILYEVICH RAKIN**

(Not For Publication)

The judgment is modified in the following respects: (1) the sentence in count 2 is stricken; and (2) the conviction in count 4 is reversed with directions to dismiss that count. The judgment is affirmed as modified.

CANTIL-SAKAUYE, J.

We Concur: Scotland, P.J.

Davis, J.

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Court Minutes

October 21, 2008, Continued

C054902 THE PEOPLE v. ISMAEL VIVEROS, JR. (Not For Publication)

The section 1202.45 fine and section 1202.4, subdivision (l) fee are stricken. As modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment and to forward a certified copy to the Department of Rehabilitation and Corrections.

DAVIS, J.

We Concur: Scotland, P.J.

Butz, J.

**C057343 THE PEOPLE v. (Not For Publication)
TANIA LATICE HICKS**

The judgment is affirmed. The trial court is directed to correct the abstract of judgment in the six respects noted in part V of the Discussion, *ante*, and to forward a certified copy of the corrected abstract to the Department of Corrections and Rehabilitation.

BUTZ, J.

We Concur: Scotland, P.J.

Blease, J.

**C057689 THE PEOPLE v. (Not For Publication)
CHARLIE CHONG THAO**

The judgment is modified as follows: (1) As to count two, the 16-month sentence is stayed pursuant to section 654; and (2) as to count five, the one-year sentence is stayed pursuant to section 654. The trial court is directed to prepare an amended abstract of judgment reflecting these modifications, and to forward a certified copy of the amended abstract to the Department of Corrections and Rehabilitation. As modified, the judgment, consisting of a total term of life with the possibility of parole plus four years eight months, is affirmed.

BUTZ, J.

We Concur: Scotland, P.J.

Blease, J.

C057779 THE PEOPLE v. JODIE LYNN TALK (Not For Publication)

The judgment is affirmed.

MORRISON, J.

We Concur: Sims, Acting P.J.

Raye, J.

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Court Minutes

October 21, 2008, Continued

- C058545 THE PEOPLE v. WILLIE VERNON (Not For Publication)**
The judgment is affirmed.
MORRISON, Acting P.J.
We Concur: Robie, J.
Cantil-Sakauye, J.
- C059070 THE PEOPLE v. RODOLFO PEREZ (Not For Publication)**
The judgment is affirmed. The trial court is directed to amend the abstract of judgment to reflect that the court imposed a \$200 restitution fine, ... and to send a certified copy of the amended abstract to the Department of Corrections and Rehabilitation.
SCOTLAND, P.J.
We Concur: Blease, J.
Davis, J.
- C053718 OSWALD v. CLARK et al. (Not For Publication)**
The judgment is affirmed. Costs on appeal are awarded to defendants.
(Cal. Rules of Court, rule 8.278 (a) .)
NICHOLSON, J.
We Concur: Sims, Acting P.J.
Hull, J.
- C055987 CASON v. CHILD AND FAMILY INSTITUTE et al. (Not For Publication)**
The order granting attorney fees is reversed. The cause is remanded to the trial court with directions to render written findings in accordance with *Rosenman, supra*, 91 Cal.App.4th at pages 867-868. Cason is awarded costs on appeal. (Cal. Rules of Court, rule 8.278 (a) (1) .)
BUTZ, J.
We Concur: Sims, Acting P.J.
Davis, J.
- C056534 COUNTY OF EL DORADO DEPARTMENT OF CHILD SUPPORT SERVICES v. NUTT (Certified For Publication)**
The judgment is affirmed.
MORRISON, J.
We Concur: Sims, Acting P.J.
Raye, J.

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October 22, 2008

At 9:30 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Scotland, Presiding Justice; Davis, Associate Justice; Cantil-Sakauye, Associate Justice; and Haskett, bailiff.

**C056422 CONSULTING ENGINEERS AND LAND SURVEYORS OF CALIFORNIA, INC.,
et al. v. CALIFORNIA DEPARTMENT OF TRANSPORTATION et al.;
PROFESSIONAL ENGINEERS IN CALIFORNIA GOVERNMENT et al.**

Cause called. Gerald A. James argued for appellants Consulting Engineers and Land Surveyors of California, Inc., et al.. Andrew F. Brimmer argued for respondents California Department of Transportation et al.. Laurie Epstein-Terris, Deputy Counsel, argued for respondents Professional Engineers in California Government et al.. Cause submitted.

At 10:09 a.m., the court recessed. At 10:14 a.m., the court reconvened with Scotland, Presiding Justice; Raye, Associate Justice; and Cantil-Sakauye, Associate Justice.

C056525 LINDEMANN v. VASQUEZ

Cause called. T. James Fisher argued for appellant. Susan S. Hinz argued for respondent. Cause submitted.

At 10:26 a.m., the court recessed. At 10:30 a.m., the court reconvened with Scotland, Presiding Justice; Hull, Associate Justice; and Butz, Associate Justice.

C051777 THE PEOPLE v. RATTANAK KAK

Cause called. Madeline McDowell, court appointed counsel, argued for appellant. Maggy Krell, Deputy Attorney General, argued for respondent. Cause submitted.

At 11:11 a.m., the court recessed. At 2:02 p.m., the court reconvened with Sims, Associate Justice; Hull, Associate Justice; and Butz, Associate Justice.

C056166 THE PEOPLE v. BOBBY PHONETT DAVIS

Cause called. Conrad Petermann, court appointed counsel, argued for appellant. Paul E. O'Connor, Deputy Attorney General, argued for respondent. Cause submitted.

At 2:36 p.m., the court recessed until 9:30 a.m., Friday, October 24, 2008.

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October 22, 2008, Continued

**C057596 THE PEOPLE v. (Not For Publication)
JAWAN ANTWAN WARRACK**

The judgment is affirmed. The trial court is directed to amend the abstract of judgment by deleting the "X" in the box indicating that a "consecutive full term" was imposed for the current conviction for violating Penal Code section 290, and to send a copy of the amended abstract to the Department of Corrections and Rehabilitation.

SCOTLAND, P.J.

We Concur: Blease, J.
 Davis, J.

**C057890 THE PEOPLE v. (Not For Publication)
CHRISTOPHER T. ELLIOTT**

The order granting probation in case No. 07F05535 is modified to strike the condition stating: "Defendant shall not associate with known or reputed users or sellers of marijuana, dangerous drugs or narcotics, or be in places where narcotics and/or dangerous drugs are present." In all other respects, the judgment is affirmed.

CANTIL-SAKAUYE, J.

We Concur: Morrison, Acting P.J.
 Robie, J.

C056519 In re ROSE F.; THE PEOPLE v. ROSE F. (Not For Publication)

The order committing the minor to the Division of Juvenile Facilities is affirmed. The juvenile court is directed to correct its minutes and the commitment order to reflect the minor's grand theft offense is a felony; the maximum period of her confinement is two years, rather than two years and one day; and she is entitled to 389 days of precommitment credit. The juvenile court is further directed to send a certified copy of the corrected commitment order to the Division of Juvenile Facilities.

SCOTLAND, P.J.

We Concur: Davis, J.
 Cantil-Sakauye, J.

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October 22, 2008, Continued

C052280 THE PEOPLE v. HUNG THIEU LY et al. (Not For Publication)

THE COURT:

It is ordered that the opinion filed in this case on September 23, 2008, be modified...

There is no change in the judgment.

The petitions for rehearing of codefendants Nicole Carroll, John Dich, Chan Vehn (John) Lam, and, by joinder, Jimmy Chi Cooc are denied.

BY THE COURT:

SCOTLAND, P.J.

Hull, J.

Butz, J.

October 23, 2008

**C055413 THE PEOPLE v. (Certified For Publication)
TAMARI JANE SLATTERY**

The judgment is modified by striking the \$876 in restitution awarded to Marshall Hospital pursuant to section 1202.4, subdivision (f). As modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment reflecting this modification and to forward a certified copy of the amended abstract to the Department of Corrections and Rehabilitation.

DAVIS, J.

We Concur: Scotland, P.J.

Butz, J.

**C056256 THE PEOPLE v. (Not For Publication)
SHANE AARON HELD**

The judgment is modified to award defendant 128 days of conduct credit for a total of 387 days of presentence credit. As so modified, the judgment is affirmed. The trial court is directed to correct its minutes to reflect a true finding on, and the striking of, the prior prison term enhancement. The court shall prepare an amended abstract of judgment, showing a four-year term for the offense... and shall forward a certified copy to the Department of Corrections and Rehabilitation.

BUTZ, J.

We Concur: Scotland, P.J.

Blease, J.

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October 23, 2008, Continued

- C058107 THE PEOPLE v. (Not For Publication)**
MARTY LESTER LEMASTER
The judgment is affirmed.
HULL, Acting P.J.
We Concur: Robie, J.
Cantil-Sakauye, J.
- C055871 DOUMIT v. McGLAMERY et al. (Not For Publication)**
The judgment is reversed with directions to the trial court to overrule the demurrer. McGlamery shall pay Doumit's costs on appeal. (Cal. Rules of Court, rule 8.278 (a) (2) .)
MORRISON, J.
We Concur: Davis, Acting P.J.
Cantil-Sakauye, J.
- C055939 THE PEOPLE v. INTERNATIONAL (Not For Publication)**
FIDELITY INSURANCE COMPANY
The judgment is affirmed. Respondent shall recover costs on appeal.
RAYE, J.
We Concur: Scotland, P.J.
Cantil-Sakauye, J.
- C056923 PIERCE v. BOYLE (Not For Publication)**
The judgment is affirmed.
SCOTLAND, P.J.
We Concur: Morrison, J.
Robie, J.

October 24, 2008

At 9:30 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Sims, Associate Justice; Raye, Associate Justice; Hull, Associate Justice; and Harper, bailiff.

- C056679 THE PEOPLE v. SPENCER LAMAR BORNES**
Cause called. Mark John Shusted, court appointed counsel, argued for appellant. Tia M. Coronado, Deputy Attorney General, argued for respondent. Cause submitted.

At 9:46 a.m., the court recessed until 9:30 a.m., Monday, October 27, 2008.

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STATE OF CALIFORNIA
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Court Minutes

October 24, 2008, Continued

- C054891 THE PEOPLE v. (Certified For Publication)**
LLOYD HENRY MURRAY
The judgment is affirmed.
HULL, J.
We Concur: Sims, Acting P.J.
Morrison, J.
- C056630 THE PEOPLE v. (Not For Publication)**
FRANCISCO JOSE BANUELOS
The judgment is modified to impose a four-year state prison term on count four, stayed pursuant to section 654. As so modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment and to forward a certified copy of the amended abstract to the Department of Corrections and Rehabilitation.
HULL, J.
We Concur: Sims, Acting P.J.
Davis, J.
- C057657 THE PEOPLE v. (Not For Publication)**
RUBY JANE EPPERSON
The judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment reflecting the updated custody credits and to forward a copy thereof to the Department of Corrections and Rehabilitation.
CANTIL-SAKAUYE, J.
We Concur: Blease, Acting P.J.
Morrison, J.